

Express Mail Label No.

Dated: _____

Docket No.: 03042/000G956-US0
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
James D. Marks

Application No.: 09/556,945

Art Unit: 3626

Filed: April 21, 2000

Examiner: Robert W. Morgan

For: SYSTEM AND METHOD FOR
RECRUITMENT OF CANDIDATES FOR
CLINICAL TRIALS WHILE MAINTAINING
SECURITY

DECLARATION OF DAHLIA ELSAYED

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I, Dahlia Elsayed, hereby declare and state as follows:

1. I am a citizen of the United States and am more than twenty-one years of age.
2. From May 10, 1999 to May 18, 2001, I was employed by Body Health Resources Corporation ("BHRC"), where I worked on behalf of James D. Marks, Founder and Chief Executive Officer, as well as on behalf of and under the direct supervision and control of Bonnie Goldman, Content Manager.
3. I completed the work described below in the United States. Based on instructions from Bonnie Goldman, I periodically downloaded, stored and printed hard copies of

responses to a Health Survey Questionnaire posted on www.thebody.com. I also stored electronic and hardcopy data in a secure fireproof file cabinet located at the office of BHRC in strict accordance with the privacy and confidentiality policies for the responses from members of the public to the Questionnaire. The earliest response from the public was submitted and received by www.thebody.com on May 24, 1999 and multiple responses from members of the public were submitted and received by www.thebody.com on May 25, 1999. This is prior to the publication of "drkoop.com & Quintiles Launch Service to Recruit Clinical Trial Patients on the Internet," PR Newswire, June 28, 1999 (the "drkoop.com press release").

4. More particularly, I performed the following procedures for responses to the Health Survey Questionnaire:

a. **DOWNLOADING:** Download survey responses once a week by going to www.thebody.com/survey/health_survey/html, entering the dates for the responses to download and a predetermined user name and password (the user name and password are omitted from this declaration in order to protect the privacy of the respondents and the confidentiality of the data). This procedure results in an encrypted e-mail transmission of responses collected from BHRC's leased server space hosted at the facilities of Interport Communications Corp., BHRC's hosting services provider, to the address research@thebody.com.

b. **RETRIEVING:** From the start menu, choose "settings," then "control panel," then click on the "mail and fax" icon. This will open a box for "Body Office Properties." Then, click on a button called "properties." Next, click on a tab called "servers" and change the login information to a predetermined account name and password (the name and account name are omitted from this declaration in order to protect the privacy of the respondents and the confidentiality of the data). The e-mail from Interport will arrive in BHRC's mailbox from the sender "postmaster" with the subject "Health Survey Responses."

c. **OPENING/DECRYPTING:** When the message is opened, it will be encrypted. To decrypt the data, click on the "Decrypt Message and Verify Signature" icon and,

when prompted, enter the given passphrase for a listed key (the passphrase text is omitted from this declaration in order to protect the privacy of the respondents and the confidentiality of the data) and then click "ok."

d. SAVING/PRINTING: Copy the text of the e-mail from Interport into Microsoft Word, inserting page breaks between each respondent, and save the WORD file on a zip disk labeled "Responses" with the file being saved as the date of the download.

5. As a result of the implementing the above instructions, I retrieved and saved electronic copies and printed hard copies of the Health Survey Responses submitted and received by www.thebody.com beginning May 24, 1999. Attached as Exhibits A, B, and C are evidence of the Health Survey Responses received prior to the publication of the June 28, 1999 drkoop.com press release. More particularly,

a. Attached as Exhibit A is a true copy of the jacket cover from the zip disk containing the Health Survey Responses for responses which were received from May 24, 1999 to April 12, 2000. The jacket cover contains the hand written description of the contents as "Health Survey Responses... launched 5/25/99." I provided this hand written note at the time that the data was first stored on the zip disk on or about May 25, 1999.

b. Attached as Exhibit B is a true copy of the file index listing of the zip disk of Exhibit A. I created this index at the time that I stored the files on the zip disk. The index includes as follows: column 1 provides the file name which corresponds to the date the Health Survey Responses were saved to the disk; column 2 provides the time stamp for saving the file; column 3 provides the storage amount of the data; and, column 4 provides the extended name of the file.

c. Attached as Exhibit C is a true copy of a hard copy listing of the Health Survey Responses from May 24, 1999 to June 27, 1999, with redaction of specific data. By following Bonnie Goldman's instructions to print the Health Survey Responses received by

Application No.: 09/556,945

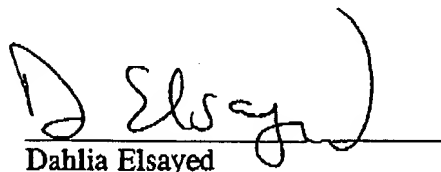
4

Docket No.: 03042/000G956-US0

www.thebody.com beginning on May 24, 1999, I generated and printed these files. At the time that I printed these files, confidential data appeared in the responses. The data is redacted for this exhibit in order to protect the privacy of the respondents and the confidentiality of the data.

6. I further declare that all statements made herein are of my own knowledge and are true, and that all statements made on information and belief are believed to be true. I further declare that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States code, and that such willful false statements may jeopardize the validity of the instant application or of any patent issued thereupon.

Dated:

Aug 18, 2004
Dahlia Elsayed